

Virginia AVIATION



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29th Annual Virginia Aviation Conference Held

The 29th Annual Virginia Aviation Conference was held recently at the Ramada Plaza Resort Oceanfront, Virginia Beach, Virginia. The theme for this year's conference was "Aviation's Evolution: From Cloth to Composite."

Sponsored by the Virginia Department of Aviation, Virginia Aviation Board, the Virginia Airport Operators Council and Virginia Aviation Business Association, the conference allows the aviation community to come together for informative discussions and meetings.

This meeting of airport managers, sponsors, consultants, government officials and others with an interest in aviation in Virginia offered breakout sessions on a number of timely topics and ran concurrently with the Virginia Aviation Board meeting. Some of the topics included Virginia's Military Aviation,

Wright Brothers History, FAA Safety Program, and a final report on Virginia Air Transportation System Plan (VATSP). An exhibit hall featured a wide range of airport-related products and aviation companies promoting and displaying.

The host airports Newport News/Williamsburg International and Norfolk International provided a great oceanfront reception for conference attendees.

The annual Virginia Aviation Awards Banquet, was held on to honor those who have made significant contributions to Virginia Aviation over the past year.

The 2002 Award for the Virginia Airport Manager of the Year was presented to Christopher U. Browne. This award was given in recognition for his decisive and motivating leadership, resourcefulness and unparalleled professionalism as Manager of Ronald Reagan National Airport during a tumultuous year marked by uncertainty and rapid change.

Kimberley Kinard Holland was selected as the 2002 Virginia Aviation Person of the Year. This award has been given for her exemplary abilities, vision, determination, dedication, enthusiasm and exemplary ability promoting aviation education, pilot safety training and public awareness programs at the Williamsburg-Jamestown Airport.

She was recognized for her lifetime of contributions towards the betterment and expansion of the U.S. Commercial Aviation through leadership, hard work



Kim Holland receives her award for 2002 Virginia Aviation Person of the Year.

and determination.

While facing recent unprecedented challenges, Colleen C. Barrett has continued to provide exemplary leadership at Southwest Airlines by retaining employees and avoiding furloughs, maintaining and expanding service to communities, and continuing the strong customer service and corporate culture that define Southwest Airlines. For attaining these goals she was chosen for the Virginia Aviation 2002 Lifetime Achievement Award.

The Virginia Finest Pilot Award was awarded to Hyde C. Perce. This award is presented by Angel Flight of Virginia and the Virginia Department of Aviation to a Virginia pilot who has made an

(see **CONFERENCE** cont. on pg 2)



Chris Browne (right) is presented the 2002 Virginia Airport Manager of the Year by DOAV Director Charles Macfarlane.

(**CONFERENCE** cont. from pg. 1)

outstanding contribution to the health and welfare of Virginia citizens through provisions of no-cost, long-distance medical air transportation through the Angel Flight of Virginia program. Hyde began flight training in 1989. A private pilot with an instrument rating, he now has 1,386 hours as pilot in command and owns a Piper Archer based at Williamsburg-Jamestown Airport. He joined Angel Flight in 2000 and has flown 40 missions for a total of about 27,000 miles. He has also served as a volunteer in the Angel Flight Virginia Beach office.

Three Virginia pilots who, this past year, introduced the most young people to the joy of flight as a part of the Experimental Aircraft Association's Young Eagles Program were awarded the 2002 Virginia Top Eagle Awards. This year's "Top Eagle #1" is Raymond Judd of Huddleston, Virginia, who flew 74 Young Eagles. "Top Eagle #2" is Andy Ozols of Stafford, Virginia, who flew 57 Young



Raymond Judd was presented the 2002 "Top Eagle" award from Charles Macfarlane.

Eagles. And "Top Eagle #3" is Williams Mackey from Moneta, Virginia, who flew 56 Young Eagles.

The Virginia Department of Aviation is pleased to congratulate all of the 2002 Virginia Aviation Awards winners and thank them for their outstanding contributions to Virginia Aviation.

Judges Needed For Flight Competition At Chesapeake Regional Airport

Hampton University will be hosting the Region X Safety and Flight Evaluation Conference (SAFECON) National Intercollegiate Flying Association's (NIFA) fall competition at Chesapeake Regional Airport in Chesapeake, VA on November 6-9, 2002. The schools under NIFA compete in both Regional and National SAFECON's or airmeets.

Currently, there are twelve events total consisting of four flying and eight ground events. The teams that accumulate the highest number of total points are champions of that SAFECON region. The Regional SAFECON's are generally held in the fall of each year, with the regions being determined by geographical placement. The scores from the regional conference determine which thirty teams are invited to the

national competition. The National SAFECON's are held each spring. The winner of the national competition is awarded the National Championship for the year.

Help is needed with judging the competitions. The judges' school will be held at 4 p.m. on Wednesday, Nov 6 at the airport. You don't need any experience with this event; all that is required is an interest in aviation and a desire to assist these college students in achieving their goals to become professional aviators. At least two additional schools have expressed interest this year so there may be as many as nine schools competing. To avoid the hectic pace of the past competitions, another day has been added to the SAFECON; this will allow to better deal with weather

(see **SAFECON** cont. on pg. 3)

Virginia Aviation Events

October 12, 2002 Virginia Air and Space Center At the Controls: A Look at Cockpits Opens. *At the Controls* portrays compelling photographic images, accompanied by information highlighting their historical significance. Be seated "at the controls" of legendary aircraft, including the Ryan Spirit of St. Louis, Supermarine Spitfire Mark VII, and the Space Shuttle Columbia! For more information, please visit www.vasc.org.

October 19 - January 5, 2003 Virginia Air and Space Center Hubble Space Telescope Exhibit Opens. Saturdays: 11 am to 4 pm
Sundays: 12 pm to 4 pm. Become an astronomer and examine different types of telescopes. Make your own Hubble Space Telescope and play cosmic games as you explore the universe. For more information, please visit www.vasc.org.

October 23, 2002 Virginia Aviation Board Meeting will be held, beginning at 9:00 a.m., at the Wyndham Hotel, 4700 South Laburnum Avenue, Richmond, VA 23231, Phone: (804) 226-4300. For more information call (804) 236-3637.

November 2, 2002 Wright Brothers Forum 9:30 am - 5 pm. Join us as experts in the field of aviation history discuss the fascinating process that led to man's ability to fly. See full-size reproductions of the Wright 1899 kite, 1900, 1901 and 1902 gliders, and the 1903 Flyer.

November 9, 2002 Virginia Aeronautical Historical Society Hall of Fame Induction Ceremony 5:30 pm. For more information or to make reservations please call (804) 222-8690.

Submit upcoming event information to:
Newsletter Editor 5702 Gulfstream Rd
Richmond, VA 23250-2422
(804) 236-3631 fax (804) 236-3635
e-mail: sdye@doav.state.va.us

Plans For Aviation World's Fair Suspended



Inability to reach financial goals cited

Secretary of Transportation Whitt Clement announced that the state will suspend its financial support of the Aviation World's Fair 2003 (AWF 2003) planned in Newport News for next April, and Newport News City Manager Ed Maroney concurred with the decision in a joint statement issued today.

The decision was based on the fact that event planners were unable to reach minimum goals for advance ticket sales, unable to sign any major sponsors for the event, and unable to generate significant exhibitor revenues, among other conditions. These factors led the state and the city to conclude that the further use of public funds and debt service is no longer appropriate.

Planning for the trade show and world's fair involved a steering committee made up of state and city officials, the business community, and the private promoter of the event. The City of Newport News, with the participation of the Peninsula Airport Commission, had agreed to serve as the host community for the event.

Approximately \$27 million in state, federal and local funds have been invested in permanent infrastructure improvements at the Newport News-Williamsburg International Airport over the past two years. These improvements are part of an approved master plan for the airport that originally had been planned for construction over 20 years. Construction was accelerated to serve site requirements of the AWF 2003, but will now allow development of a business park and related commercial activities. The 2002 General Assembly had also approved authorization for the Virginia Department of Aviation to finance construction of improvements related to exhibits and event activities, but this funding will no longer be necessary.

The goal of the AWF 2003, as it was

developed several years ago, was to bring together the world's aviation and aerospace community in an inspiring celebration of the first 100 years of manned flight. The Commonwealth of Virginia, through the Cabinet offices for Transportation and Commerce and Trade, and a private sector promoter initiated the process for planning this event in 1999. The City of Newport News, through the participation of the Peninsula Airport Commission, agreed to serve as the host community.

While the original concept held great potential, several significant factors have diminished the viability of the AWF to the point where the likelihood of success is no longer sufficient to warrant the further use of public funds. A detailed evaluation of the promoter's plans for event and exhibit infrastructure construction and financing prior to disbursement of additional state funds for the AWF 2003 has indicated that the inability to reach minimum goals for sponsorship, ticket sales and exhibitor revenues, among other conditions, makes additional taxpayer funding for this event inappropriate.

The promoter has been unable to secure a single sponsor for the event, and actual ticket sales and exhibitor revenues lag far behind the original projections. To date there are fewer than 100 exhibitors signed up, even though the original projection provided to the Commonwealth and the City was for 1600 exhibitors.

Likewise, ticket sales that were supposed to begin in April have just begun in the last few weeks. In addition, the promoter was unable to provide the required performance bond to the Peninsula Airport Commission.

State and local officials will work with the event promoter and others to conclude the event.

Scholarships Awarded to Virginia Students

Students awarded \$3,000 in scholarships

The 2002 John R. Lillard Scholarship (\$2,000) was presented to Christopher W. Emory who attend Halifax County High School in South Boston. Christopher plans to pursue a degree in engineering from Virginia Tech.

The John R. Lillard Scholarship Fund is administered by the Virginia Airport Operators Council (VAOC) and sponsored by the VAOC and the Virginia Department of Aviation.

VAOC is an organization comprised of airport operators within the Commonwealth of Virginia. One of its objectives is to advance and promote educational opportunities and programs in the aviation industry within the Commonwealth.

VASEF Scholarship Awarded

The 2002 Virginia Aviation and Space Education Forum Scholarship (\$1,000) was awarded to Christy Lynn Heib of Colonial Forge High School in Stafford.

Christy plans to pursue a degree in Aviation Management from Embry-Riddle Aeronautical University.

Applications for the 2003 Virginia Aviation and Space Education Forum Scholarship will be sent to high school guidance departments this fall.

(SAFECON cont. from pg. 3)
delays and also to have more time to finalize the scores.

Events include a navigation event, power-off and short-field landings, message drop, simulator flight, aircraft recognition, preflight event, and computer (E6B) tests. There will also be an award for the school having the best safety program.

If you plan to attend please contact Linda Mathias, Chief Judge Region X SAFECON, at (757) 242-3491.

Stafford County Airport Adding Services

Fuel, food, taxis to be available

By EDIE GROSS
The Free Lance-Star

Coming soon to a runway near you: airplane fuel, maintenance crews, catering and taxi and rental-car service. The Stafford Regional Airport—not much more than an airstrip for the first eight months of its existence—is on its way to becoming a full-service flight facility.

The airport authority has contracted with Trajen Inc., an aeronautical support firm with bases in Texas and California, to serve as the facility's fixed-base operator.

The company plans to have about a dozen employees on site by mid-September to provide a range of services to pilots using the airport.

Right now, the planes coming in and out of Stafford Regional Airport cannot refuel or receive maintenance there. That will change when Trajen arrives. The company also plans to contract with others so that visitors can eat in the temporary terminal and get transportation to their final destination.

Trajen officials are excited about being able to mold a brand-new airport into a regional destination, said Gary Briggs, president of Ascend Development, the development arm of Trajen.

"We think it's a unique opportunity," he said. "There are not too many new airports being built from scratch. This isn't a makeover of an airport that was built for some other purpose."

Eventually, Trajen will oversee construction of a new, permanent terminal building and several hangars. There are currently 36 aircraft on a waiting list for hangar space at the airport.

"We're interested in very high-quality, upscale facilities that make a statement to the business community that this is an airport that's serious, this is a community that's serious," Briggs said. "We think there's potential for that airport to become a real conduit for business development."

The \$36 million airport, which opened Dec. 13 just west of Interstate 95, handles about 40 takeoffs and landings each week, said Airport Director Cindi

Martin. About five corporate jets visit each week, she said.

Trajen was one of three companies vying for the position of fixed-base operator at Stafford Regional Airport. The company will pay the authority a \$9,000 "ground rental fee" this first year, plus another fee based on how much fuel it sells, Martin said.

"The airport is like the mall, and Trajen is like the JCPenney or Sears," she said. "They pay us a fee to be in our mall."

The authority had hoped to bring in a fixed-base operator a little sooner than this, Martin said. But it had to wait for officials at Dulles International, Reagan Washington National and Quantico Marine Corps Base to incorporate the new airport's flight patterns into their already existing networks.

"We expected to be a little further along. There were some unforeseen delays," Martin said. "But in terms of development we're right on target. It may not be following the timeline, but it's following the plan."

Delta Connection To Offer Expanded Service From Reagan National

Will fly new larger jets from Newport News-Williamsburg International

Delta Connection will offer customers expanded service at Washington Reagan National Airport beginning Nov.

vice will include Charleston, S.C.; Columbus, Ohio; Huntsville, Ala.; and the Florida cities of Jacksonville, Orlando, Tampa, Ft. Lauderdale and West Palm Beach.

Delta (NYSE:DAL) is offering special introductory round-trip fares ranging from \$140 to \$200 for flights between Washington Reagan and the eight new cities for travel from Nov. 1, 2002 through Jan. 31, 2003, excluding certain holiday travel dates. Round-trip sale fares

\$150 for Columbus; \$175 for Charleston; and \$200 for Huntsville. These sale fares require a Saturday night stay and 14-day advance purchase. Tickets must be purchased by Sept. 29, 2002. See below for other important restrictions.

"This new service will increase Delta Connection service significantly at Reagan National, with a total of 31 daily flights," said Fred Buttrell, president and chief executive officer of Delta Connection, Inc. "Customers going to and from Washington, D.C., soon will have a convenient choice of 70 non-stop Delta, Delta Shuttle and Delta Connection flights to 14 domestic cities."

Delta Connection carriers Atlantic Southeast Airlines and Comair will operate the service with Bombardier CRJ regional jets. The increased service will

(see **DELTA** cont. on pg. 6)



1, 2002, with 20 daily non-stop flights serving eight new cities and New York (JFK), Atlanta and Cincinnati. New ser-

are \$144 between Reagan National and Jacksonville, Orlando, Tampa and Ft. Lauderdale; \$140 for West Palm Beach;

Control Tower Taking Shape At RIC

Richmond International Airport has begun construction on the new control tower which will replace the current 53-foot tower, one of the oldest control towers in the nation.

The new \$10.7 million tower will be a welcomed addition to Richmond International, opening much needed space for terminal expansion once the new tower is built.



The tower is being financed through \$8.7 million in federal funds and \$2 million in state aviation funds.

The 180-foot-tall tower will provide a better line of sight for air traffic controllers, who at times have trouble seeing the entire airport field from the current tower.

Once completed the Federal Aviation Administration will own and operate the tower. It is slated to be completed in early 2003.

VAOC To Hold Annual Maintenance Workshop

The Virginia Airport Operators Council (VAOC) will hold the 6th Annual Virginia Airport Maintenance Workshop. The event, to be held November 6-7, 2002, will take place at the Williamsburg-Jamestown Airport.

This year's workshop focuses on the airfield, electrical, security and numerous other miscellaneous maintenance requirements of interest to all airport maintenance personnel. As in the past, there will be airport personnel from both air carrier and general aviation airports from Virginia, Maryland, North Carolina, West Virginia and more.

The VAOC Maintenance Workshop will showcase product distributors and maintenance firms demonstrating equipment and products during this two-day (see [VAOC](#) cont. on pg. 8)

AOPA Donates New Pilot Facility In Honor Of Wright Brothers' 100th Anniversary of Powered Flight

AOPA, on behalf of its membership, is donating the funds for construction of an all-new Pilot Facility at the Wright Brothers National Memorial at Kill Devil Hills, North Carolina. In coordination with the National Park Service and First Flight Centennial Foundation, the Pilot Facility will be the only permanent structure built at the historic site to remain following the 2003 100th Anniversary of Powered Flight celebrations. The schedule calls for the structure to be completed and dedicated for the 99th anniversary and centennial year kick-off, December 17, 2002.

"Sponsorship of the permanent Pilot Facility is a very appropriate way for AOPA members to honor the Wright brothers' legacy and the generations of pilots who have followed them in flight," said AOPA President Phil Boyer. "Visiting the birthplace of powered flight is a right of passage for many pilots.

AOPA is proud to sponsor this Pilot Facility for the safety and convenience of the thousands of pilots who visit First Flight each year."

The Pilot Facility will include a dedicated pilot briefing room complete with telephones, wall-mounted navigation charts, workplace for flight planning, computerized weather, and flight planning equipment. The 900-square-foot facility, located adjacent to the 3,000-foot First Flight Airfield, also will provide space for an air tour concession and rest rooms. The exterior of the building will also feature an AOPA recognition plaque welcoming pilots to the Wright Brothers National Memorial Pilot Facility.

"I encourage AOPA members to visit this historic place to use their new Pilot Facility during the centennial year," Boyer said. In addition to pilots, more than 1.5 million people are expected to

visit the national memorial in 2003.

While the new Pilot Facility will be the focal point of AOPA's 100th anniversary recognition, AOPA will also provide an inclusive centennial section and calendar on its Web site, exclusive centennial editorial coverage in *AOPA Pilot* magazine, and AOPA's on-going Centennial of Flight Sweepstakes, which gives winning members the chance to experience monthly flights in a Waco biplane and the ultimate prize of winning a rebuilt 1940 Waco three-seater biplane.

With more than 385,000 members, AOPA is the world's largest civil aviation organization, representing the interests of all general aviation pilots and owners. Recognition of the Wright brothers' achievement complements the 63-year history of the organization. Some two thirds of all pilots in the United States are members of AOPA.

(Delta cont. from pg 4)

include three additional round-trip flights between Reagan National and Atlanta, one additional round-trip flight between Reagan National and Cincinnati, and one additional round-trip flight between Reagan National and JFK.

The CRJ carries passengers in a two-by-two seating arrangement; every seat is an aisle or window, with no middle seats. The plane can cruise at a speed of 530 mph at altitudes as high as 41,000 feet and is recognized as the quietest commercial jet aircraft in the world.

Delta Connection includes Delta Air Lines' wholly owned subsidiaries Atlantic Southeast Airlines and Comair, additional regional carriers Atlantic Coast Airlines, Chautauqua Airlines and SkyWest Airlines, and codeshare partner American Eagle in California. Delta Connection carriers operate more than 250 regional jets throughout North America. For more information, please visit delta.com.

Delta Connection to add larger jets at Newport News-Williamsburg International

Delta Connection will offer customers expanded service at Newport News-Williamsburg International Airport, beginning Nov. 1, 2002, featuring the new

70-passenger Bombardier CRJ700 aircraft. The new schedule includes two round-trip CRJ700 flights between Newport News and Atlanta, replacing two of the three daily flights currently operated with the CRJ200. The third flight will remain in the schedule. The ex-



panded passenger capacity of the CRJ700 increases the number of Delta Connection seats between the two cities by 27 percent.

"The addition of CRJ700 service at Newport News reflects the continued growth of the Newport News market and customer demand for flights to At-

lanta," said Fred Buttrell, president and chief executive officer, Delta Connection, Inc. "Our service between Newport News and Atlanta has been very successful since our first flight in February 2002, and we know our Newport News customers will appreciate the enhanced comfort of our newest and largest Delta Connection jet."

Departure and arrival times at Newport News remain the same. Passengers will continue to enjoy the convenience of three daily nonstop flights to Atlanta, offering premium connecting opportunities to 210 destinations aboard more than 880 Delta, Delta Connection and SkyTeam flights.

Passengers familiar with the 40- and 50-seat CRJs will notice increased comfort in the CRJ700 cabin. The floor has been lowered by one inch to increase head and shoulder room; the windows have been raised almost five inches for easier outside viewing; and the overhead bins have been redesigned to provide a wider, more spacious aisle. Additionally, all Delta Connection CRJ700s feature all-leather interiors and a comfortable two-by-two seating arrangement in which there are no middle seats.

The CRJ700 service between Newport News and Atlanta will be operated by Delta Connection carrier Atlantic Southeast Airlines.

- VIRGINIA AVIATION -

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New T-Hangars For Williamsburg-Jamestown Airport

As concerns about airport security are on the rise, many aircraft owners are looking for T-hangars to store their prized possessions. Williamsburg-Jamestown Airport (JGG) is preparing to begin construction on 20 new T-hangars. The site design for these new T-hangars should be nearing an end, with construction to begin during the fall.

JGG services include parking and line service, dining, a complete pilot shop, catering, and conference services.

For more information on JGG please visit www.wjairport.com or call (757) 229-9256.



Legal Flyers

In our last column we discussed how Federal and state law often pertained to the same issue. The vitally important area of airport rates and charges presents an excellent example where both Federal law precepts and state law principles overlap.

Airports cannot function without revenues to pay for capital improvements and ongoing operations. Serious financial difficulties can close an airport – thus, every airport's ongoing search for new or increased revenue sources. While adequate rates and charges are the lifeblood of airports, the imposition of or increases in landing fees, fuel flowage charges and hangar and tie-down rental rates can lead to contention among airport management, FBOs and airport users. Before proceeding with new fees or increases in existing fees, airport operators should ensure that a solid legal foundation supports the imposition of new fees or the raising of existing fees.

State law. The enabling legislation for nearly all airports provides that the airport sponsor can determine, impose and collect fees, rates and charges for the use of the airport's facilities. One example: the airport has the authority "to fix and charge tolls, fees and other charges for the use of, or for services rendered by, any of the facilities it is authorized to establish, construct, acquire, lease, maintain and operate ...". Most statutes also provide that the airport itself has no taxing power (although airports directly owned and operated by ~~cities, counties and towns~~ may have access to the general fund or to taxing powers for revenue support). This type of language is vital, as it shows that the airport has the statutory authority to establish and charge fees.

In doing so, however, care must be taken to avoid characterization as an illegal tax (since many airports lack the taxing power). Here, Virginia case law looks to the purpose of the imposition. A tax is generally categorized as an as-

essment for the purpose of raising revenue generally, without any particularized benefit to those who pay it. User fees, on the other hand, are charges for the use of a facility or the provision of a service, and the relevant legal inquiry is "whether there is a reasonable correlation between the benefit conferred and the cost exacted by the ordinance." A fee is generally not invalid merely because it generates a surplus or exceeds the actual cost of providing the related service. Indeed, a surplus may be generated but its amount must still be "reasonably connected" to the benefit related to the fee. If not so related, the user fee is subject to characterization as an impermissible tax.

Federal law. Both the U.S. Constitution and the Federal aviation statutes address airport rates and charges. Due to airports' role in interstate commerce, airport rates and charges must satisfy the Constitutional standard that they (i) be based on some fair approximation of the facility's use, (ii) not be excessive in relation to the benefits conferred, and (iii) not discriminate against interstate commerce (they apply equally to inter- and intrastate users). If a levy is clearly excessive in relation to its benefits, then it is suspect under the Constitution. (Of course, the foregoing assumes a legitimate public purpose in establishing and imposing the fee; if not, then – to paraphrase Shakespeare – "the first thing we do is call all the lawyers").

Federal aviation statutes embody the Constitutional dictates, requiring that an airport accepting Federal funds (i) make available its facilities for public purposes on fair and reasonable terms without unjust discrimination, (ii) may not divert airport revenue for non-airport purposes, and (iii) must maintain a fee structure that in the circumstances makes the airport as financially self-sustaining as possible. Similarly, the Anti-Head Tax Act prohibits an airport from collecting a new tax, fee or charge that

is imposed exclusively upon any business located at a commercial service airport, other than a tax, fee or charge utilized for airport or aeronautical purposes.

In August, 1994, Congress directed the Secretary of Transportation to publish "final regulations, policy statements, or guidelines establishing ... the standards or guidelines that shall be used by the Secretary in determining ... whether an airport fee is reasonable." The Secretary adopted its "Final Policy Regarding Airport Rates and Charges" in June, 1996. Congress also directed in 1994 that the Secretary provide guidance on the appropriate uses of airport revenue (the so-called "revenue diversion" issue). The Secretary adopted its "Policy and Procedures Concerning the Use of Airport Revenue" in February, 1999, which policy assists airports to avoid using funds contrary to the terms of Federal statutes and Federal airport grant agreements. (Both policies may be found on the FAA's website at <http://www.faa.gov/arp/fedreg.htm>).

The Rates and Charges Policy applies only to aeronautical users. Rates and charges must be "fair and reasonable," and may be set by a rate-setting methodology (including residual, compensatory or a combination), that "is applied consistently to similarly situated aeronautical users and conforms with the requirements of this policy." In the Policy, the FAA strongly encourages parties to agree to the appropriate level or methodology for rates and charges. While most of the Policy on Use of Airport Revenue concerns permissible uses of airport revenue, it also discusses the nature of airport revenues and the governing statutory provisions. We'll save a more thorough discussion of both policies for a later day.

How does the foregoing instruct us? User fees must be reasonable and tied (see **LEGAL FLYERS** cont. on pg. 8)

(LEGAL FLYERS cont. from pg. 7) to the costs and use of the facility used or service offered. The fee must be "reasonably connected" to the benefit (or based on some fair approximation of the facility's use). Any "surplus" should be reasonably connected to the underlying purpose for the fee's imposition. Revenue generation itself is permissible, insofar as it pertains to the ongoing operations of the facility. Thus, courts have long upheld challenges against rental car concession fees on the theory that the users derive an overall benefit from the existence of the entire airport. If there is evidence of "piling on," a court may find a fee to be "excessive" for purposes of the interstate commerce analysis or "unrelated/not approximately related to use," for purposes of both the commerce clause analysis and state law analysis.

There is no rigid or "brightline" test in this area, as the inquiry is based more on comparative factors — whether the use of a fee is reasonably connected to the benefit it provides (state law),

whether the overall level of a particular class of fees at an airport bears some relationship to the use of the airport by those that pay the fees in question (state law and federal law), and whether the fees are excessive in relation to the costs incurred (federal law).

Before an airport imposes a new fee or raises an existing one, then, it may wish to consider several questions:

what is the nature of the fee or charge?
on whom is it being assessed?
how will proceeds of the fee be used?
what is the benefit to the user?
how is the fee calculated (for instance, based on cost)?
will there be a surplus and how will any surplus be used?

In summary, two independent strands of state and Federal authority bear on the legality of new or increased revenue sources. The first concerns state law distinctions between a user fee and a tax, while the second implicates federal principles, including con-

stitutional notions of interstate commerce and federal statutory and regulatory provisions. At bottom, both attempt to find "reasonableness" by measuring the amount of the fee to the use of the facility for which the fee is charged.

Eric Ballou (804/697-4122; eballou@cblaw.com) practices aviation and local government law in Richmond. This material offers general information and should not be taken or used as legal advice for specific situations that depend on the evaluation of factual circumstances.

(VAOC cont. from pg. 5)

conference. Areas will be set aside for both indoor and out for displaying of equipment and materials. Interior display space is limited this year.

If you are interested and have questions or concerns, please feel free to contact Steven Calabro at the Chesterfield County Airport (804) 743-0771.



If you are interested in learning more about what is going on in the Department of Aviation, please call our office at (804) 236-3624 or our Sponsor Hotline at (800) 292-1034. Visit our website for updates on future events at: www.doav.state.va.us.



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